

POLICIES AND PROCEDURES FOR SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING

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Pursuant to Chapter 69 of the Acts of 2018, “An Act Relative to Criminal Justice Reform,” (Criminal Justice Reform Act), the Executive Office of Public Safety and Security (EOPSS) is required to establish a statewide tracking system to electronically monitor the collection and testing of sexual assault evidence collection kits (SAECK(s)). The Criminal Justice Reform Act requires law enforcement agencies, the State Police Crime Lab and any crime lab operated by a police department of a municipality with a population of more than 150,000, a medical facility or medical facility licensed pursuant to Mass. General Law Chapter 111, and the Offices of the District Attorneys, to participate in this statewide tracking system. The tracking system will record the progress of SAECK(s) from initial collection at a medical facility through testing at a crime laboratory. The tracking system is not intended to replace policies and procedures at medical facilities and law enforcement agencies that pertain to the handling of SAECK(s). The following policies and procedures are to be followed to ensure the accuracy of the information contained in the tracking system

I. DEFINITIONS

Agency: Law enforcement agencies, the State Police Crime Lab, any crime lab operated by a police department of a municipality with a population of more than 150,000, a medical facility or medical facility licensed pursuant to Mass. General Law Chapter 111, and the Offices of the District Attorneys

Agency Administrator: Person(s) responsible for managing administration and access for their agency’s portal, including adding and removing users in the system, generating statutorily required reports, and managing notifications and settings.

Authorized user: Person(s) granted access to the tracking system portal.

Collector: Person(s) designated by the medical facility, specially trained to preform forensic examinations and collect evidence required for a SAECK.

Crime Laboratory: The State Police crime lab and the Boston Police crime lab, and any crime lab operated by a police department of a municipality with a population of more than 150,000.

District Attorney Office (DAO): The office of the prosecuting attorney in each County that works with law enforcement to investigate crimes and file criminal charges.

Law Enforcement Agency (LEA): A state or local police department, campus police department, or Department of Correction facility investigative division. that are responsible for retrieval of the SAECK from the medical facility and transportation to the appropriate crime lab

Medical Facility: A hospital licensed pursuant to Massachusetts General Laws chapter 111 and all other medical facilities that conduct medical forensic examinations involving an SAECK.

Minor: A person 15 years of age and under. For tracking purposes only, a kit administered to a minor is always be considered “reported” within the system.

Out-of-State SAECK: A SAECK collected in Massachusetts for a sexual assault that occurred outside of Massachusetts.

Pediatric Sexual Assault Evidence Collection Kit: A SAECK used when conducting a forensic medical examination on a sexual assault survivor that is 11 years of age and younger. For tracking purposes only, this kit is always considered “reported” within the system.

Policy Center: Managed by EOPSS and responsible for overall TRACK-KIT system functionality. The Policy Center monitors users’ performance and statutory compliance. The Policy Center does not provide information on SAECKs to survivors or the public. A survivor can contact the Policy Center if they are having difficulty using the tracking system after first seeking assistance from either the medical facility or a law enforcement agency.

Portal: The individualized entry point into the tracking system for survivors, medical facilities, LEAs, DAOs and Crime Labs. Portal access is limited and agencies can only view or enter information on SAECKs within their jurisdiction. Portal access by a survivor is limited to information on the survivor’s kit.

Quantity Limited Evidence: An item of evidence is quantity limited (QLIM) when the lab determines that the item’s limited quantity will require the entire sample to be consumed during DNA analysis in order to maximize the potential for obtaining DNA results.

Reported SAECK: A SAECK administered to a survivor who has reported a sexual assault to law enforcement. This SAECK must be transported to a crime lab by law enforcement. All SAECKs administered to minors (persons 15 years of age or younger) are considered reported SAECKs.

Retro-fitted SAECK: SAECKs in an agencies’ possession prior to the implementation of the tracking system that have had a Track-Kit barcode added to the outside of the box.

Sexual Assault Evidence Collection Kit (SAECK): A sealed box containing detailed protocols and all the medical equipment necessary to conduct a thorough forensic medical examination on an adult and an adolescent sexual assault survivor (12 years of age and older). A SAECK may also be referred to as a “kit”.

Sexual Assault Survivor’s Rights: Rights provided by M.G.L. Chapter 69 of the Acts of 2018, Section 215(c) to a survivor of sexual assault.

Survivor’s Rights Document: Document developed by EOPSS that details the rights guaranteed to a survivor of sexual assault under M.G.L. Ch. 69 of the Acts of 2018 Section 215(c).

STACS DNA: Company providing the Sexual Assault Evidence Collection Kit Tracking System, training and support.

Survivor: A person who is given a forensic medical examination utilizing a Sexual Assault Evidence Collection Kit.

Tolled SAECK: A SAECK for which the 30-day statutory testing period is being “paused” for one of three reasons:

- Quantity Limited evidence and waiting for DA notification;
- Quantity limited evidence and waiting for defense representative observation of testing; and

- Court order

Toxicology Kit: A kit administered to survivors suspected of being drugged in conjunction with a sexual assault. This kit is NOT tracked by the tracking system, but MUST be transported to the crime lab regardless of whether the survivor reports the sexual assault to law enforcement. Toxicology kits are automatically tested because of the potential for dissipation of evidence.

TRACK-KIT (tracking system): Cloud based Sexual Assault Evidence Collection Kit Tracking System which tracks all SAECK(s) from collection at a medical facility to delivery to a crime lab for testing.

Unreported SAECK: A SAECK administered to a survivor, aged 16 or older, who has not reported a sexual assault to a LEA. This is also known as a “non-investigatory” SAECK. Unreported SAECKs are not transported to the Crime Lab but held at the LEA.

II. POLICIES AND PROCEDURES FOR EACH PORTAL

Medical Facilities

Nothing in the following policies and procedures is meant to replace medical facilities’ current practices for SAECK administration, chain of custody and documentation.

- a) **Portal Administration:** Each medical facility is responsible for:
 - a. Determining who and how many users will be authorized to use the tracking system. An agency may authorize the number of users necessary to effectively enter data in a timely and accurate manner.
 - b. Identifying which authorized users will be responsible for entering SAECK information into the system.
 - c. Ensuring that authorized users are properly trained in the operation of the tracking system.
 - d. Developing a policy to authorize access for new users of the system and to remove authorization from users who no longer requiring access, including users who have ended their employment, have been suspended, or terminated.
- b) **SAECK required to be entered into the tracking system:** Once a medical facility is granted access, information on all SAECKs must be entered into the tracking system. A SAECK received and stored at a medical facility before said facility has access to the tracking system, must be retro-fitted with a TRACK-KIT barcode. A SAECK can be retro-fitted by affixing the TRACK-KIT barcodes to the outside of the box and onto the envelopes inside the SAECK.
- c) **Re-order of Track-Kit barcodes and stickers:** A medical facility can order additional barcoded stickers to retro-fit SAECKs in their inventory, from EOPSS’ Office of Grants and Research (OGR). All new SAECKs will come pre-packaged with the necessary barcodes.
- d) **Entering a SAECK into the tracking system:** Once a SAECK is entered into the system an auto-generated notification will be sent to the LEA with jurisdiction. To ensure that the notification is made correctly and within the legally required 24-hour time period a collector must establish which LEA has jurisdiction based on where the sexual assault occurred and if

- the sexual assault was reported. A collector entering a SAECK into the system must indicate if the sexual assault has been reported to the LEA with jurisdiction or if the sexual assault is unreported.
- A survivor can report the assault to a LEA verbally or in writing. The report to LEA can occur before, or after, the administration of the SAECK. If the survivor does not make a report to LEA before they are discharged from the medical facility or before the mandatory 24 notification period has run the SAECK shall be entered into the system as unreported.
- e) **SAECK administered to a minor:** For tracking purposes only, a kit administered to a minor (a person 15 years of age or younger) will always be considered reported within the system. Regardless of whether the survivor makes a report to law enforcement, this SAECK must be tested at a crime lab.
 - f) **Out-of-State SAECK:** Before a SAECK administered in the Commonwealth for a sexual assault occurring outside of Massachusetts is entered into the tracking system, the medical facility must take all necessary steps to contact the out-of-state LEA. If after 24 hours the out-of-state LEA fails to respond, the medical facility must enter the SAECK into the tracking system. The tracking system will send notification of the collection of the out-of-state SAECK to the Massachusetts State Police Detective Unit (MSPDU). The MSPDU will take custody of, transport and schedule storage of the SAECK at the EOPSS Milford storage facility. Out-of-state SAECKs will not be stored at the Massachusetts State Police Crime Lab.
 - g) **Assisting a survivor with using the tracking system:** Prior to or at the time of the administration of the SAECK, the medical facility shall:
 - a. Provide the survivor with the Survivor's Right Document
 - b. Assist the survivor in accordance with those rights
 - c. Provide the survivor with the TRACK-KIT information card informing the survivor of the existence of the tracking system and issuing a temporary password for access to the tracking system.
 - h) **Lost or forgotten password:** If a survivor loses their information card or forgets their password, the medical facility shall work with the survivor to re-set the password. The Policy Center cannot re-set a survivor's password because it does not have the ability to authenticate a survivor's identity.
 - i) **Assistance with Portal usage and administration:** If a user encounters an error or issue using the tracking system the user can contact STACS DNA 24hrs a day, 7 days a week at support@stacsdna.com or 1-855-929-1789. Depending on the type of issue, STACS DNA may refer a user to the Policy Center for assistance with their inquiry. It is preferred that a user contact the Policy center by email, kit_trackinginfo@mass.gov. For critical and or time sensitive issues, the Policy Center hotline can be reached by phone, _____ Monday through Friday, 8am to 5pm. A voicemail received after business hours or on the weekend may not be answered until the following business day.
 - j) **Assistance with SAECKs that are not retrieved by LEA:** The medical facility may seek the assistance of the Policy Center if a LEA is not responsive and does not retrieve a SAECK within three business days of notification

Law Enforcement Agency (LEA)

Nothing in the following policies and procedures is meant to replace current practices for SAECK administration, chain of custody and documentation.

- a) **Portal Administration:** Each LEA is responsible for:
 - a. Determining who and how many users will be authorized to use the tracking system. An agency may authorize the number of users necessary to effectively enter data in a timely and accurate manner.
 - b. Identifying which authorized users will be responsible for entering SAECK information into the system.
 - c. Ensuring that authorized users are properly trained in the operation of the tracking system.
 - d. Developing a policy to authorize access to new users of the system and to remove authorization from users who no longer require access, including users who have ended their employment, have been suspended, or terminated.
- b) **SAECK required to be entered into the tracking system:** Once a LEA is granted access, information on all SAECKs must be entered into the tracking system. A LEA is responsible for entering a SAECK when the medical facility has failed to enter the SAECK into the tracking system.
- c) **Entering a SAECK into the tracking system:** LEAs are required by law to take possession of a SAECK within three (3) business days of notification by a medical facility. The tracking system will auto-generate a notification through the portal to LEAs. A medical facility may also contact the LEA directly. If contacted directly by the medical facility a LEA may retrieve a SAECK before they receive the portal notification. A LEA can enter the SAECK into the tracking system before it is entered by the medical facility. It is critical that the LEA enter the SAECK into the tracking system prior to or immediately after submitting the SAECK to the crime lab. A survivor cannot track their SAECK unless it is entered into the tracking system.
- d) **Submission to the relevant crime lab:** LEAs are required by law to submit the reported SAECK to the crime lab within seven (7) business days of taking possession of the SAECK. by the medical facility. The agency must still adhere to the policy for evidence submission at the respective crime lab.
- e) **Reported SAECK:** SAECKs are identified in the tracking system as either reported or unreported. If the SAECK is identified by the medical facility as reported, but the survivor does not report the sexual assault to LEA within seven (7) business day after notification, the LEA should change the designation to unreported and store the SAECK at their agency.
- f) **Unreported SAECK:** All unreported adult (survivor 16 years of age or older) SAECKs must be stored at the LEA. If at any time a survivor decides to report the sexual assault to the LEA, the SAECK designation in the tracking system should be changed to reported and the SAECK transported to the crime lab. For tracking system purposes a kit administered to a person 15 years of age and under will always be considered reported within the system.
SAECK administered to a minor: For tracking purposes only, a kit administered to a minor (survivor 15 years of age or younger) will always be considered reported within the system.

Regardless of whether the survivor makes a report to law enforcement, this SAECK must be transported to the relevant crime lab for testing.

- g) **Sexual Assault Report Code:** The report code is a mandatory field identifying the appropriate offense based on the survivor's report. The report code DOES NOT reflect the ultimate charge(s) that could or should be filed nor does indicate that a suspect has, should or could be identified, charged or arrested.
- h) **Case number:** the LEA case number that corresponds to the reported SAECK.
- i) **Assisting a survivor with using the tracking system:** If a survivor loses the Track-Kit information card provided by the medical facility or forgets their password the LEA should work with the medical facility to help the survivor re-set the password. If the survivor is seeking assistance in obtaining the crime lab results from their SAECK or CODIS information, the LEA shall advise the survivor of the results if known or The LEA should facilitate contact between the survivor and the District Attorney's Office.
- j) **SAECK administered out-of -state and sexual assault occurred in-state:** A LEA informed that a SAECK was collected out-of-state from a survivor of a sexual assault occurring in the LEA's jurisdiction is required to take possession of the SAECK. Upon receipt of the SAECK the LEA must contact the Policy Center to obtain a TRACK-KIT barcode to be affixed outside of the out-of-state SAECK and enter the SAECK into the tracking system. SAECKS for reported sexual assaults (including all assaults with a survivor 15 years of age or younger) must be transported to the crime lab, SAECKS for unreported sexual assaults must be retained by the LEA.
- k) **Notification of SAECK retrieval from Crime Lab:** The LEA will receive an auto-generated notification through the tracking system when a SAECK is ready to be picked up from the Crime Lab. All established policies and procedures for evidence retrieval must be followed when picking up a SAECK from the crime lab

Crime Lab

Nothing in the following policies and procedures is meant to replace current practices for SAECK administration, chain of custody and documentation.

- a) **Portal Administration:** The crime lab is responsible for:
 - a. Determining who and how many users will be authorized to use the tracking system. An agency may authorize the number of users necessary to effectively enter data in a timely and accurate manner.
 - b. Identifying which authorized users will be responsible for entering SAECK information into the system.
 - c. Ensuring that authorized users are properly trained in the operation of the tracking system.
 - d. Developing a policy to authorize access for new users of the system and to remove authorization from users who no longer require access, including users who have ended their employment, have been suspended, or terminated.
- b) **SAECK required to be entered into the tracking system:** Once the crime lab has access to the system every SAECK received by the crime lab must be entered into the tracking system. If the

medical facility and/or LEA has failed to enter the SAECK into the tracking system, the crime lab is still responsible for entering the SAECK into the tracking system.

- c) **Entering a SAECK into the tracking system:** That date a SAECK is received at the crime lab must be entered into the tracking system. SAECKS should be entered into the tracking system on the day they are received. If a SAECK is not entered into the system on the day it is received the crime lab must record the day the SAECK was received at the crime lab in the tracking system.
- d) **Tolled SAECK:** The Crime Lab must record in the tracking system when SAECK testing is tolled
- e) **Unreported SAECK:** All unreported adult (survivor 16 years of age or older) SAECKs, must be stored at the LEA. If at any time a survivor decides to report the //sexual assault to the LEA, the LEA must change the SAECK designation in the tracking system to reported and transport the SAECK to the Crime Lab.
- f) **Out-of-State SAECK:** Prior to entering a SAECK collected in the Commonwealth from a sexual assault occurring outside of Massachusetts into the tracking system, the medical facility shall take all necessary steps to contact the out-of-state LEA. If after 24 hours the out-of-state LEA fails to respond, the medical facility must enter the SAECK into the tracking system. The tracking system will send notification of the collection of the out-of-state SAECK to the Massachusetts State Police Detective Unit (MSPDU). The MSPDU is responsible for taking custody of, transporting and storing the SAECK at the EOPSS Milford storage facility. Out-of-state SAECKs will not be stored at the Massachusetts State Police Crime Lab.
- g) **SAECK collected out-of-state for sexual assault occurring in-state:** A LEA is required to take possession of a SAECK administered out-of-state to a survivor of a sexual assault occurring in the LEA's jurisdiction. Upon receipt of the SAECK the LEA must:
 - a. Affix the TRACK-KIT barcode to the out-of-state SAECK.
 - b. Enter the SAECK into the tracking system.
 - c. Transport SAECKS for all reported sexual assaults (including all assaults with a survivor 15 years of age or younger) to the crime lab.
 - d. Retain and store SAECKS for unreported sexual assaults for at least 15 years or when the statute of limitations is up, whichever is longer.
- h) **LEA notification:** The crime lab shall notify the submitting LEA when the SAECK is ready for pick up. The SAECK may be ready for pick-up while testing is still in process.
- i) **Crime Lab results:** The crime lab shall communicate the results of any testing, CODIS upload or inability to upload a sample to CODIS to the District Attorney's Office and LEA. The District Attorney's Office or LEA is responsible for communicating crime lab results to the survivor.
- j) **Crime Lab Completion date:** The crime lab must enter date testing is complete into the tracking system.
- k) **Assistance with Portal usage and administration:** If a user encounters an error or issue using the tracking system the user can contact STACS DNA 24hrs a day, 7 days a week at support@stacsdna.com or 1-855-929-1789. Depending on the type of issue, STACS DNA may refer the user to the Policy Center for assistance with their inquiry. It is preferred that a user contact the Policy center by email, kit_trackinginfo@mass.gov. For critical and or time sensitive issues, the Policy Center hotline can be reached by phone, _____ Monday through Friday, 8am to 5pm. A voicemail received after business hours or on the weekend may not be answered until the following business day.

Survivor

- a) **Access to the tracking system:** The medical facility will provide the survivor with a card containing a temporary password and instructions for accessing the tracking system. A survivor will be prompted to change their password at first log in.
- b) **Report to law enforcement:** All SAECKS for sexual assaults reported to a LEA by a survivor must be tested at the Crime Lab. The report to the LEA can take place before or after the SAECK is administered. A survivor cannot request that a SAECK remain untested if the sexual assault is reported to law enforcement.
- c) **No report to law enforcement:** If a survivor does not report the sexual assault to a LEA the SAECK will not be tested. The SAECK will be held at the LEA for at least 15 years or when the statute of limitations runs out, whichever is longer. At any time, during that period, a survivor can choose to report a previously unreported sexual assault and the LEA will be required to submit the SAECK to the Crime Lab for testing.
- d) **Inquiry into status of SAECK:** A survivor seeking information on their SAECK, beyond the information available in the tracking system should contact the LEA or District Attorney's Office. The Policy Center cannot provide this information to the survivor.
- e) **Assistance with Portal usage and administration:** If a user encounters an error or issue using the tracking system the user can contact STACS DNA 24hrs a day, 7 days a week at support@stacsdna.com or 1-855-929-1789. Depending on the type of issue, STACS DNA may refer the user to the Policy Center for assistance with their inquiry. It is preferred that a user contact the Policy center by email, kit_trackinginfo@mass.gov. For critical and or time sensitive issues, the Policy Center hotline can be reached by phone, _____ Monday through Friday, 8am to 5pm. A voicemail received after business hours or on the weekend may not be answered until the following business day.

District Attorney

Nothing in the following policies and procedures is meant to replace current practice for SAECK administration, chain of custody or documentation.

- a) **Portal Administration:** Each DAO is responsible for:
 - a. Determining who, within their organization, will be authorized to access to their portal.
 - b. Ensuring that authorized users are properly trained in the operation of the tracking system.
 - c. Developing a policy to authorize access for new users of the system and to remove authorization from users who no longer require access, including users who have ended their employment, have been suspended, or terminated.
- b) **Access to Specific County:** A DAO shall only have access to SAECK information for their County. A DAO seeking access to another County's SAECK data must make the request in writing by email to the Policy Center. The request must:
 - a. Be made by the DAO with jurisdiction over the SAECK.
 - b. Identify the specific SAECK by Track-Kit number.
 - c. Contain the reason access is being requested.

- d. Include the name(s) and title(s) and current employer of the individual(s) requiring access.

For example: The Suffolk County District Attorney's Office is requesting that Essex County Assistant District Attorney Jane Smith, specially assigned to Suffolk County, be granted access to the Suffolk County SAECK, Track-Kit number XXX.

- c) **Crime Lab results:** The Crime Lab will communicate the results of any testing, CODIS upload or inability to upload a sample to CODIS to the District Attorney's Office and LEA. The District Attorney's Office or LEA is responsible for communicating this information to the survivor.

III. General Administration of the Tracking System

Policy Center. The Policy Center will monitor the tracking system to ensure the system is used and functioning appropriately. The Policy Center will contact a user if a SAECK is not entered appropriately or in a timely manner. Any user or survivor should contact the Policy Center with concerns about misuse of the system or a failure to adhere to statutory guidelines.

Reporting Requirements: Under Massachusetts General Laws Chapter 6A, Section 18Y, each year, on or before September 1, Law Enforcement Agencies, Medical Facilities, Crime Laboratories and any other facilities that receive, maintain, store or preserve SAECK must submit to the Executive Office of Public Safety and Security reports regarding the previous fiscal year. The reports shall contain:

- (i) the total number of all kits containing forensic samples collected or received;
- (ii) the date of the collection or receipt of each kit;
- (iii) the category of each kit;
- (iv) the sexual assault that was reported to law enforcement;
- (v) whether or not the victim chose not to file a report with law enforcement (non-investigatory);
- (vi) the status of the kit;
- (vii) the total number of all kits remaining in the possession of the medical facility, law enforcement or laboratory and all reasons for a kit remaining in possession for more than thirty days;
- (viii) the total number of kits destroyed by medical facilities, law enforcement or Crime Laboratories, and reason for destruction;
- (ix) in the case of a medical facility, the date the kit was collected, the date the kit was reported to law enforcement and the date the kit was picked up by law enforcement;
- (x) in the case of law enforcement, the date the kit was picked up from a medical facility, the date the kit was delivered to the Crime Laboratory and, for kits belonging to another jurisdiction, the date the jurisdiction was notified and the date it was pick up; and

(xi) in the case of Crime Laboratories the date the kit was received, from which agency the kit was received, the date the kit was tested, the date the resulting information was entered into CODIS and the state DNA databases and all reasons a kit was not tested or a DNA profile was not created.

The Executive Office of Public Safety and Security will compile the information in a summary report that includes a list of all agencies or facilities that failed to participate in the audit. The annual summary report shall be made publically available on the Executive Office of Public Safety and Security's website and shall be submitted to the Governor, the Attorney General, the Clerks of the House of Representatives and the Senate, and the House and Senate chairs of the Joint Committee on the Judiciary.